

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA**

AT BECKLEY

ARTHUR ANTHONY BAXTER,

Petitioner,

v.

CIVIL ACTION NO. 5:19-cv-00261

WARDEN YOUNG,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending are Arthur Anthony Baxter's Petition for Habeas Corpus Pursuant to 28 U.S.C. § 2241 [Doc. 1] and Application to Proceed without Prepayment of Fees or Costs [Doc. 2]. Also pending is the Respondent's Motion to Dismiss [Doc. 15]. This action was previously referred to United States Magistrate Judge Cheryl A. Eifert for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Eifert filed her PF&R on December 5, 2019. Magistrate Judge Eifert recommended that the Court grant the Motion to Dismiss, deny the application to proceed without prepayment of fees as moot, and dismiss the Petition.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (emphasis added) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made*."). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v.*

De Leon-Ramirez, 925 F.3d 177, 181 (4th Cir. 2019) (parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on December 23, 2019. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 19**], **GRANTS** the Motion to Dismiss [**Doc. 15**], **DENIES** the Application to Proceed without Prepayment of Fees or Costs as moot [**Doc. 2**], **DISMISSES** the Petition for Habeas Corpus Pursuant to 28 U.S.C. § 2241 [**Doc. 1**], and **ORDERS** that this case be removed from the Court’s docket.

The Court directs the Clerk to transmit a copy of this Memorandum Opinion and Order to any counsel of record and any unrepresented party herein.

ENTERED: May 13, 2020



Frank W. Volk
Frank W. Volk
United States District Judge